
APPENDIX E

STORMWATER MANAGEMENT ORDINANCE



Ratification
Number 2007-158

AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CHAPTER 7, SECTION 173 TO CHANGE THE WORD DRAIN TO STORMWATER FACILITY TO COINCIDE WITH THE NEW STORMWATER ORDINANCE; TO AMEND CHAPTER 27, TO REPEAL SAID CHAPTER AND TO REPLACE IT WITH A NEW CHAPTER 27 TO PROVIDE FOR NEW REGULATIONS GOVERNING STORMWATER MANAGEMENT; AND TO REORGANIZE CURRENT REGULATIONS GOVERNING STORMWATER MANAGEMENT AFFECTED BY THESE NEW REGULATIONS AS REQUIRED BY LAW. (AS AMENDED)

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS IN CITY COUNCIL ASSEMBLED:

Section 1. Chapter 7, Section 173 of the Code of the City of Charleston is hereby amended by deleting the following stricken words and adding thereto the following underlined words, which shall read as follows:

"Sec. 7-173. Cash bond required from owner for demolition permit of building with uncapped sewer or stormwater facility.

Before any permit, as provided for in the city building code, is issued for the wrecking or removal of any building which has an uncapped sewer or stormwater facility drain-connection, the owner shall be required by the chief building official to deposit a cash bond of five hundred dollars (\$500.00), which bond shall be refunded to the owner only after the sewer or drain stormwater facility connections shall have been capped in a manner satisfactory to the city plumbing chief building official. Should the owner fail to so cap a sewer or drain stormwater facility connections within sixty (60) calendar days after issuance of the permit, the chief building inspector official shall be authorized to arrange to cap the sewer or drain stormwater facility connections and the bond shall be forfeited to the city treasury. In addition to forfeited bond, any additional expenses shall also be the responsibility of the owner.

Section 2. Chapter 27 of the Code of the City of Charleston is hereby repealed in its entirety and substituting in its place and stead the following:

CHAPTER 27

STORMWATER MANAGEMENT & FLOOD CONTROL

Art. I. Stormwater Management Ordinance, § 27-1 through § 27-84

- Division 1 General Provisions
- Division 2 Organization and Administration
- Division 3 Stormwater Quantity and Quality Management Requirements
- Division 4 Detection and Elimination of Illicit Discharges and Improper Disposal
- Division 5 Monitoring, Inspection, Enforcement, Abatement, and Penalties
- Division 6 Variances
- Division 7 Appeal Process
- Division 8 Charges and Fees

Art. II. Stormwater Facilities & Flood Hazard Damage Prevention and Control, § 27-85 through § 27-108

Division 1 Stormwater Facilities

Division 2 Provisions for Flood Hazard Reduction

Art. III. Stormwater Management Utility, § 27-109 through § 27-125

ARTICLE I. STORMWATER MANAGEMENT ORDINANCE

DIVISION 1 GENERAL PROVISIONS

Sec. 27-1. Title.

This Article shall be known as the Stormwater Management Ordinance of the City of Charleston, South Carolina.

Sec. 27-2. Definitions.

The following words and terms when used in this Article shall have the meaning respectively ascribed to them in this Section.

"Applicant" is a person, firm, governmental agency, partnership, limited liability company, or any other entity who seeks to obtain approval under the requirements of this ordinance and who, in addition to the property owner or operator, will be responsible for the land disturbing activity(ies) and related maintenance thereof.

"As-built drawings" are revised construction drawings containing an attestation clause signed by an engineer or surveyor that show the installed location of the new facilities on a project, including the stormwater system. This term and "record drawings" shall be synonymous.

"Best Management Practices (BMPs)" are any structural or non-structural measure or facility used for the control of stormwater runoff, be it for quantity or quality control. BMPs also include schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, and other management practices to control site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, or measures that otherwise prevent or reduce the pollutant loading of receiving waters.

"City" shall mean the City of Charleston.

"Construction" or "Construction Activity" is activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the danger of erosion, or which might create an alteration to an existing drainage way or other component of the City's stormwater management system or facility.

"Development" or "Re-Development" means any of the following actions undertaken by a person, a firm, a governmental agency, a partnership, a limited liability company, or any other individual or entity, without limitation:

- a) any division or subdivision of a lot, tract, parcel, or other divisions by plat or deed;
- (b) the construction, installation, or alteration of land, a structure, impervious surface or drainage facility;
- (c) clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand, or rock of a site; or
- (d) adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand, or rock of a site.

"Erosion" means the general process by which soils or rock fragments are detached and moved by the action of wind, water, ice, and gravity.

"Easement" is an authorization by a property owner to the general public, a corporation, or a certain person or persons for the use of any designated part of his property for a specific purpose.

"Flood/flooding" is a temporary rise in the level of water which results in the inundation of areas not ordinarily covered by water.

"Hazardous Material" is any item or agent (biological, chemical, radiological, or physical) which has the potential to cause harm to humans, other living organisms, or the environment, either by itself or through interaction with other factors.

"Illicit Connection" means a connection to a City of Charleston stormwater management system or facility which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES MS4 permit for the City of Charleston).

"Improper Disposal" means any disposal other than through an illicit connection that results in an illicit discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

"Illicit Discharge" or "Illegal Discharge" means any activity which results in a discharge to a City of Charleston stormwater management system or facility or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES for the City of Charleston) and (b) discharges resulting from fire-fighting activities.

"Construction Activity Application" means the set of drawings, specifications, design calculations, Stormwater Pollution Prevention Plan ("SWPPP"), and other documents necessary to demonstrate compliance with this ordinance.

"Low Impact Development (LID)" is a set of principles and design components used to manage stormwater runoff by mimicking natural conditions and limiting pollutant transport through source control.

"Maintenance" means any action necessary to preserve stormwater system components, including conveyances, facilities, and BMPs in proper working condition, in order to serve the intended purposes set forth in this ordinance and to prevent structural failure of such components.

"Maximum Extent Practicable" (MEP) is a technology-based control standard used in the municipal stormwater program against which SCDHEC Bureau of Water and permittees assess whether or not an adequate level of control has been proposed in the Stormwater Management Program (SWMP). MEP is applied to all permits issued to municipal separate storm sewer systems, including the City's, to achieve greater cooperation and consistency, to reduce conflicts and confusion, and to improve economies of scale in the effort to manage stormwater impacts.

"MS4" means a municipal separate storm sewer system and includes all conveyances or system of conveyances (including roads with drainage systems, highways, rights-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which receives, transports, stores, or treats stormwater runoff and which is (a) owned or operated by the City of Charleston; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not a part of a Publicly Owned Treatment Works (POTW).

"NPDES" means National Pollutant Discharge Elimination System.

"NPDES Permit" means the NPDES permit for stormwater discharges issued by SCDHEC pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26) that allows for restricting pollutant loads as necessary to meet water quality standards.

"Operator" means the person who is operating the property, the operator's agent, or any other person who acts in the operator's behalf.

"Outfall" or "Discharge point" means the point where a City of Charleston stormwater management system or facility or other municipal and private system discharges to receiving waters.

"Owner" means the legal property owner, the owner's agent, or any other person who acts in the owner's behalf.

"Person" means any and all persons, natural or artificial and includes any individual, association, firm, corporation, limited liability company, business trust, estate, trust, partnership, two or more persons having a joint or common interest, or an agent or employee thereof, or any other legal entity.

"Pollutant" means anything which may cause or contribute to exceedences of water quality standards, including but not limited to sediment, bacteria, nutrients, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, and industrial, municipal, and agricultural waste discharged into receiving waters.

"Pollutant Load" is a numeric value representing an estimate of the mass of a given pollutant entering a stormwater system or receiving water.

"Receiving Waters" refers to any lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State of South Carolina, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt.

"Regulation" means any regulation, rule, or requirement prepared by and/or adopted by City Council pursuant to this ordinance.

"Spill" means any accidental or purposeful discharge of any pollutants, hazardous materials, or other substance which is otherwise potentially detrimental to the designated use of receiving water.

"SWMP" means the City of Charleston's Stormwater Management Program, which shall describe the components to be used by the City of Charleston to control stormwater discharges, address flooding, and meet water quality standards.

"Stormwater" means rainwater runoff, snowmelt runoff, surface runoff, and drainage.

"Stormwater Management" means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this ordinance and its terms, including, but not limited to, measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by man-made changes to the land.

"Stormwater Management System(s) and Facility(ies)" means those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes and other physical works, properties, and improvements which transfer, control, convey, or otherwise influence the movement of stormwater runoff, be it for quantity or quality control.

"Total Maximum Daily Load (TMDL)" is a regulatory value developed to represent the amount of a pollutant that receiving water can incorporate while meeting water quality standards. TMDL is further defined as the legal document developed by EPA and SCDHEC designating the pollutant load a permitted discharge is allowed to discharge into receiving water.

"Variance" means the modification of the minimum stormwater management requirements contained in this ordinance and the SWMP for specific circumstances where strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this ordinance.

"Watercourse" is any natural or man-made conveyance used to transport runoff from one location to the next.

"Watershed" is a drainage area or drainage basin contributing to the flow of stormwater into a watercourse or receiving water.

"Water Quality" means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

"Water Quantity" means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Sec. 27-3. Findings.

City Council hereby makes the following findings of fact:

(a) Uncontrolled stormwater runoff may have significant, adverse impacts on the health, safety, and general welfare of the City and the quality of life of its citizens. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and general riverine ecosystem through excessive or illegal pollutant discharges, erosion, and flooding thereby limiting or removing its designated and potential uses;

(b) The City is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain a NPDES permit from the South Carolina Department of Health and Environmental Control ("SCDHEC") for stormwater discharges from the City's stormwater system. The NPDES permit requires the City to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable (MEP) using management practices, control techniques and systems, design and engineering methods; and such other provisions which are determined to be appropriate for the control of such pollutants; and,

(c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including construction, development, and re-development activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain NPDES permits for such activities.

Sec. 27-4. Authority.

This Article is adopted pursuant to the authority conferred upon the City by the South Carolina Constitution, Act No. 194 of the Acts and Joint Resolutions of 1971 enacted by the General Assembly of the State of South Carolina, approved April 23, 1971, in 1976 South Carolina Code of Laws Sections 4-9-30, 4-9-40, 5-7-30, and 5-7-60.

Sec. 27-5. Jurisdiction.

The jurisdiction and scope of this Article shall encompass the corporate limits of the City, as they may be adjusted from time to time after the ratification of this Ordinance.

Sec. 27-6. Purpose.

(a) It is the purpose of this Article to protect, maintain, and enhance water quality and the environment of the City and the short-term and long-term public health, safety, and general welfare of the citizens of the City. This Article is also designed to minimize property damage by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff and related pollutant loads associated with both future development and existing developed land. Proper management of stormwater runoff will further the purpose of this Article to ensure a functional drainage system, reduce the effects of development on land and riparian erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain to the maximum extent practicable pre-developed runoff characteristics of the area in terms of flow rate, volume, and pollutant concentration, and facilitate economic development while mitigating associated pollutant, flooding, erosion, and drainage impacts.

(b) It is further the purpose of this Article to direct the development and implementation of a Stormwater Management Program (SWMP) and to establish legal authority which authorizes or enables the City at a minimum to:

(1) Comply with State and Federal requirements related to stormwater management developed pursuant to the Clean Water Act;

(2) **Prohibit illicit discharges** to the City stormwater management systems and facilities and receiving waters;

(3) Control to the maximum extent practicable the discharge to the City stormwater management systems and facilities and receiving waters of spills, dumping, or disposal of materials other than stormwater;

(4) Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges listed in the SWMP;

(5) Require erosion and sediment controls to protect water quality on **all applicable** new and re-development projects both during and after construction;

(6) Where necessary, require stormwater discharge rate and volume controls during and following construction, development, or re-development activities;

(7) Define and implement procedures for stormwater site plan review and stormwater site inspections of all applicable construction, development, and re-development projects within the City;

(8) Control the discharge from the City stormwater management systems and facilities and receiving waters of pollutants in such quantity that water quality standards are met or to otherwise address post-construction, post-development, post-re-development, and long-term water quality, including the necessary means needed to comply with state and federal regulations regarding stormwater management quantity and quality;

(9) Define procedures for addressing citizen complaints of stormwater-related issues within the City;

~~(10)~~ Provide for adequate long term operation and maintenance of Best Management Practices (BMPs);

(11) Prior to any approval of construction, development, or re-development activities within the City, require a letter from DHEC's Office of Ocean and Coastal Resource Management that states the proposed project is consistent with the Coastal Zone Management Act;

(12) Carry out inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with approved construction activity application conditions including the prohibition on illicit discharges to the City stormwater management systems and facilities and receiving waters;

(13) Encourage the use of non-traditional strategies to control stormwater discharges;

(14) Encourage the creation of riparian buffers and preservation of natural spaces to provide areas that could be used for flood storage, stormwater treatment and control, and recreation. Such areas may be required in special protection areas needed to protect, maintain, or enhance water quality and protect property from flooding problems;

(15) Develop, implement, and enforce action plans to address pollutant load reductions required in impaired waterbodies and to work towards compliance with Total Maximum Daily Loads (TMDLs) established by the EPA or the SCDHEC and to work towards meeting water quality standards; and,

(16) Provide for the enforcement of the Stormwater Management Ordinance.

(c) Further, it is the purpose of this Article to establish review authority for the City's Department of Public Service and the City's Public Works and Utilities Committee for establishing consistency of construction, development, and re-development projects with the City's SWMP.

Sec. 27-7. Construction and Scope.

The application of this Article and the provisions and references expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of the City or powers granted the City by the State of South Carolina statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements. If site characteristics on new development, re-development, and existing developments indicate that complying with these minimum requirements will not provide adequate designs or protection for local property, residents, or the environment, as determined by the Director of Public Service or his designee, the property owner or operator shall be required to provide additional and appropriate management practices, control techniques, system designs, and engineering methods to attain an adequate level of protection.

Sec. 27-8. Severability.

It is declared the intent of City Council that the sections, subsections, paragraphs, sentences, clauses and phrases of this Article are severable; and if any such provision shall be declared unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity or enforceability of any remaining provisions of this Article, and it is the intent of City Council that such provisions shall continue in full force and effect.

Sec. 27-9. Relationship with other Laws, Regulations, and Ordinances.

Whenever the provisions of this Article impose more restrictive standards than are required in or under any other law, regulation, or ordinance, the requirements contained in this Article shall prevail. Whenever the provisions of any other law, regulation, or ordinance require more restrictive standards than are required in this Article, the requirements of such law, regulation, or ordinance shall prevail.

Sec. 27-10. Rules of Language and Interpretation.

For purposes of this Article:

- (a) The word "shall" is mandatory; the word "may" is permissive;
- (b) The particular shall control the general;
- (c) Days shall mean calendar days;
- (d) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary; and,
- (e) All public officials, bodies, and agencies to which reference is made are those of the City, unless otherwise indicated.

Sec. 27-11. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this Article are hereby repealed. This ordinance shall prevail in any and all conflicts with guidelines, manuals, or other publications.

Sec. 27-12. – 27-15. Reserved.

DIVISION 2 ORGANIZATION AND ADMINISTRATION

Sec. 27-16. The City Stormwater Management Program.

The SWMP, which shall be developed by the Department of Public Service with City Council's approval, shall serve as the basis for directing the City's efforts to control stormwater. The SWMP requirements shall be complied with and shall be enforced in accordance with the provisions of this ordinance.

Sec. 27-17. Coordination with Other Agencies.

The Department of Public Service may coordinate the City's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters through written agreement. Authority not expressly reserved for other agencies or restricted by statute is placed with the Department of Public Service for the protection and preservation of receiving waters. The Department of Public Service should coordinate with state and federal agencies.

Sec. 27-18. – 27-23. Reserved.

DIVISION 3 STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 27-24. Regulations.

The Department of Public Service shall be responsible for day to day coordination, implementation, and enforcement of this ordinance and the SWMP as well as the long-term management of the City's stormwater drainage. Without limitation, the Department of Public Service shall have the following authority:

- (1) To issue any approval, certification, or license that may be required to comply with this ordinance;
- (2) To deny a facility connection to the City's stormwater management system or facility or to deny the discharge to receiving waters, if the state requirements and this ordinance are not met;
- (3) To create and enact with City Council's approval the City's Stormwater Design Standards Manual. The Stormwater Design Standards Manual shall be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance;
- (4) To require the submittal of an application for all applicable construction activities, development activities, and re-development activities that result in activities altering an area of land equal to or greater than one (1) acre, is located within ½ mile of a receiving water and disturbs more than 0.5 acre, or other sites as deemed necessary by the Director of Public Service or his designee. These applications shall include a plan to control stormwater pollutants and other components detailed in the City Stormwater Design Standards Manual.
- (5) To require the development of a Stormwater Pollution Prevention Plan (SWPPP) for all applicable construction, development and re-development projects and enforcement of the SWPPP;
- (6) To approve applicable construction, development, and re-development activities and to require as a condition of such approvals, structural or non-structural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL-mandated pollutant load reductions and water quality standards;
- (7) The Department of Public Service shall develop a process that organizes the closure of construction, development, and re-development projects to accommodate development phases and property ownership transfers;
- (8) To conduct all activities necessary to carry out the SWMP and other requirements included in this ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility;
- (9) To require appropriate post construction, post development, and post re-development BMPs and appropriate continued maintenance of those BMPs;
- (10) To determine appropriate fees and to take necessary and appropriate actions to enforce this ordinance; and,
- (11) To require encroachment permits as necessary.

Sec. 27-25. Prohibitions and Exemptions.

(a) No person shall (1) develop or re-develop any land, (2) engage in any industry or enterprise, (3) construct, operate, or maintain any landfill, hazardous waste treatment, disposal, or recovery facility, or any other industrial or related facility, (4) dispose of any hazardous material or toxic substance or other pollutant, or (5) otherwise allow the transport of sediment and other pollutants associated with stormwater runoff beyond property boundaries without complying with this ordinance.

(b) The following development activities are exempt from the provisions of this ordinance.

1. Land disturbing activities undertaken on forest land for the production and harvesting of timber and timber products that is conducted in accordance with BPMs and minimum erosion protection measures established by the South Carolina Forestry Commission pursuant to Section 48-18-70 of the 1976 Code of Laws of South Carolina, as amended.

2. Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.

3. Land disturbing activities on agricultural land for production of plants and animals, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, including, but not limited to, broiler houses, machine sheds, repair shops, coops, barns shall require the submittal and approval of a Land Disturbance Application prior to the start of the land disturbing activity.

Sec. 27-26. Design and Engineering Standards.

(a) The Department of Public Service shall promulgate design and engineering standards that shall define the desired level of quality and performance for stormwater management systems on all applicable construction, development, and re-development activities in order to meet the purpose of this ordinance. The standards establish the minimum technical requirements needed to evidence compliance through calculations, maps, drawings, or other items as necessary.

(b) The Department of Public Service shall develop and adopt policies, criteria, specifications, and standards for the proper implementation of the requirements of this ordinance, federal and state laws and regulations, the SWMP, and to provide a sound technical basis for the achievement of stormwater management, including water quality and quantity objectives.

(c) It shall be the responsibility of the property owner or operator for land disturbing activities to provide adequate controls to meet the design and engineering standards.

Sec. 27-27. Construction Activity Application.

(a) A submittal shall be made for all applicable construction, development, and re-development activities for review by the Department of Public Service. The entire application process and requirements shall be described in a Stormwater Design Standards Manual more fully described in Section 27-28.

(b) It shall be the responsibility of the applicant to provide a complete application package that meets the requirements of this ordinance, the SWMP, and other state and federal regulations. Incomplete applications shall be returned to the applicant.

(c) A maintenance plan for the stormwater management system shall be included with the Construction Activity Application and shall cover activities to be conducted during and after construction, development, or re-development. As part of the maintenance plan, the property owner of such facility shall specifically agree through signature of Covenants to be responsible for keeping the system and facilities in working order.

(d) Construction and BMP maintenance and inspection schedules to be implemented during the construction activity and for as long as any stormwater facility is in service shall be included with the Construction Activity Application. Required and recommended schedules for BMP maintenance and inspection are to be provided in the Stormwater Design Standards Manual.

(e) Prior to the issuance of an approved application for construction activity:

1. The property owner shall execute a legal document entitled "Covenants for Permanent Maintenance of Stormwater Systems" which Covenants shall be recorded by the City in the Office of the Register Mesne Conveyance for Charleston County. The location of the facility, the recorded location of the Covenants, and a statement of the property owner's responsibility for maintenance shall be included and also shown on the plat accompanying the Construction Activity Application. In the case of an operator other than the property owner, a copy of a maintenance agreement between the operator and the property owner shall be included with the Covenants, defining the operators' duties and responsibilities and a statement that the property owner shall be responsible for maintenance activities upon the termination of such Maintenance Agreement.

2. The property owner shall grant to the City a perpetual, non-exclusive, transferable easement, beginning or ending at a public street or other access point that allows for public inspection and emergency repair of all components of the drainage system related to the flow of the stormwater, including all conveyances and all water quantity and quality control facilities. At the request of the Director of Public Service or his designee, the property owner shall grant to the City rights-of-way necessary for the implementation and enforcement of this ordinance. Stormwater quantity and quality control facilities shall be located so that required easements can be effectively used and ownership and maintenance responsibility can be clearly defined in deeds and plats.

(f) When the Director of Public Service or his designee determines that additional storage capacity or pollutant load reduction beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety, and general welfare, to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, the City may:

1. Require that the applicant grant any necessary easements over, through, or under the applicant's property to provide access to or drainage for such a facility; and/or

2. Require that the applicant obtain from the property owner(s) over, through, or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same.

(g) If the construction, development, or re-development activity is to be phased, no stage work, related to the construction, development, or re-development of stormwater management facilities shall commence until the preceding stage of work is completed in accordance with an approved application to perform the work. The procedure for construction, development, and re-development phases beginning and ending and what

constitutes such conditions shall be developed by the applicant and submitted along with their Construction Activity Application.

(h) Before commencing any work to implement the approved Construction Activity Application and upon completion of any phase or designated component of the site, the applicant shall notify the Director of Public Service or his designee. Notification schedules shall be provided for in the Stormwater Design Standards Manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved application shall be documented and presented upon request to the Director of Public Service or his designee.

Sec. 27-28. Stormwater Design Standards Manual.

Subject to City Council approval, the Department of Public Service is authorized to develop a Stormwater Design Standards Manual. The manual shall include design standards, procedures and criteria for conducting hydrologic, hydraulic, pollutant load evaluations, and downstream impact for all components of the stormwater management system. Although the intention of the manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented in such manual. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic, and pollutant load studies if approved or required by the Department of Public Service.

The manual shall contain at a minimum the following components:

- (a) Contents and approval procedures additional to Section 27-27 for the Construction Activity Application;
- (b) Construction, development, and re-development completion and closeout procedures;
- (c) Hydrologic, hydraulic, and water quality design standards for the purposes of controlling the runoff rate, volume, and pollutant load;
- (d) Information and requirements for construction, development and re-development projects in special protection areas necessary to address TMDLs, known problem areas and other areas necessary to protect, maintain, and enhance water quality and the environment of the City and the public health, safety, and general welfare of the citizens of the City;
- (e) Construction, development, and re-development document requirements;
- (f) Minimum easement requirements; and,
- (g) Required and recommended inspection schedules and activities for all components of the stormwater management system, including construction, development, and re-development related BMPs.

The manual shall be updated as needed to reflect advances in technology and experience related to stormwater management.

Sec. 27-29. Termination of an Approved Construction Activity Application.

The notice of termination ("NOT") process shall be completed by the Department of Public Service prior to any of the following actions, as applicable:

- (a) The use or occupancy of any newly constructed components of the site;
- (b) Final acceptance of any road into the Official City Road Inventory; and/or,

- (c) Approval and/or acceptance for recording of map, plat, or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

Sec. 27-30. Stormwater Management Protection.

Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and the short-term and long-term public health, safety, and general welfare of the citizens of the City. The Department of Public Service shall develop procedures to provide reasonable assurances that maintenance activities are performed for both the City and privately maintained systems. The Department of Public Service shall also define procedures for transferring maintenance responsibilities to another person.

- (a) Property owners shall be responsible for maintaining stormwater quantity and quality facilities and all conveyance structures located on their property. The minimum maintenance requirements shall be performed at necessary intervals, as determined by the Director of Public Service or his designee, during construction and for as long as a stormwater management system or component is in use.

- (b) A property owner or operator may hire or contract others to perform necessary maintenance actions.

- (c) The City shall own and maintain all drainage system components that are constructed under or collect stormwater runoff from a City-owned road.

- (d) The City may in its sole discretion accept, limit, or decline ownership and maintenance of all or part of a stormwater system.

Sec. 27-31. Watercourse Protection.

- (a) Every person owning or operating property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the property owner or operator shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

- (b) To assist in the compliance with state and federal laws and regulations, the Department of Public Service may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards. Such areas may consist of watersheds corresponding to adopted TMDLs, known flooding problems and pollutant impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of the City and the public health, safety, and general welfare of the citizens of the City.

- (c) New stormwater systems created as the result of any construction, development or re-development project shall be connected to the existing drainage system in a manner so as not to degrade the integrity of the existing system, whether natural or manmade. This shall be demonstrated to the Department of Public Service prior to issuance of the NOT. Discharge points shall be confined to connections with an existing natural or man-made drainage system. When stormwater discharges are to flow into collection systems not owned and maintained by the City, the owners of these systems shall maintain the right to disapprove new connections to their system.

Sec. 27-32. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person has any information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or receiving waters, said person shall take all necessary steps to discover, contain, and cleanup any such releases. This person shall also take immediate steps to protect against future recurrences of the discharge. In the event of such a release of hazardous materials, including but not limited to oils, greases, engine fluids and fuels, chemicals, herbicides and pesticides, and fertilizers, said person shall immediately notify all agencies as required by law.

Sec. 27-33. Cleanup Procedures.

The City may develop spill procedures on how non-hazardous spills are cleaned up, and who is responsible for the cleanup in terms of the activities to be performed and cost of such actions.

Sec. 27-34. – 27-39. Reserved.

DIVISION 4 DETECTION AND REMOVAL OF ILLICIT CONNECTIONS AND DISCHARGES AND IMPROPER DISPOSAL

Sec. 27-40. Illicit Connections, Illicit Discharges, and Improper Disposal.

(a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything, except stormwater or other approved discharges into a City stormwater management system or facility or to any receiving waters.

(b) It is unlawful for any person to continue the operation of any such illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this ordinance shall be disconnected and redirected, if necessary, to the satisfaction of the Director of Public Service or his designee and any other federal, state, or local agency or department regulating the discharge.

(c) It is unlawful for any person to throw, drain, or otherwise discharge to a City stormwater management system or facility or to receiving waters or to cause, permit, or allow a discharge that is composed of anything except stormwater.

(d) The Department of Public Service shall develop procedures for detecting, tracking, and eliminating illicit discharges and improper disposals to the stormwater system.

(e) The Director of Public Service or his designee may require controls for or exempt from the prohibition provision in (a), (b), and (c) above the following, provided that a reasonable determination is made that they are not a significant source of pollutants:

(1) Unpolluted industrial cooling water, but only under the authorization and direction of the Director of Public Service or his designee and if an appropriate Industrial NPDES permit is in place;

(2) Water line flushing, diverted stream flows, rising ground waters, uncontaminated pumped ground waters, and uncontaminated ground water infiltration;

(3) Discharges from potable water sources, foundation drains, air conditioning condensation, landscape irrigation, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, dechlorinated swimming pool discharges, flows from riparian habitats and wetlands, and street wash water; and,

(4) Discharges or flows from fire fighting.

(f) The Department of Public Service may develop procedures for allowing other non-stormwater discharges.

Sec. 27-41. Detection of Illicit Connections and Improper Disposal.

(a) The Department of Public Service shall take appropriate steps to detect and eliminate illicit connections to the City stormwater system. These steps may include adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, develop programs to provide for public education and public information, inspection, legal actions, and other appropriate activities to facilitate the proper management and elimination of illicit connections.

(b) The Department of Public Service shall take appropriate steps to detect and eliminate improper discharges. These steps may include programs to screen for disposal, programs to provide for public education and public information, inspection, legal actions, and other appropriate activities to facilitate the proper management and elimination of illicit discharges.

Sec. 27-42. Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or recovery, any refuse, rubbish, garbage, litter, pet fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollutant loading. Yard debris, including natural foliage, may be deposited in the public right of way in accordance with Chapter 14, Section 46(g) of the Code of the City of Charleston but not in or on any stormwater conveyance structures, including ditches, inlets, and gutters. Wastes in proper waste receptacles may be placed in the street for collection in accordance with Chapter 14, Section 46(g) of the Code of the City of Charleston. Waste or yard debris shall only be placed in the street if a collection service through the City or a private contractor is available.

Sec. 27-43. Discharges in Violation of NPDES General Permit for Stormwater Discharges Associated with Industrial Activity Permit.

Any person subject to a Discharges in Violation of NPDES General Permit for Storm Water Discharges Associated with Industrial Activity Permit (except construction, new development, and re-development activities) shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Service or his designee prior to or as a condition of the issuance of a Construction Activity Application, and/or a Building Permit.

Sec. 27-44. – 27-49. Reserved.

DIVISION 5 MONITORING, INSPECTION, ENFORCEMENT, ABATEMENT, AND PENALTIES

Sec. 27-50. Monitoring.

The Department of Public Service may monitor the quantity and concentration of pollutants in stormwater discharges from the areas and/or locations designated in the City's SWMP.

Sec. 27-51. Inspections.

(a) The Department of Public Service shall promulgate procedures for conducting site inspections.

(b) The Director of Public Service or his designee, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance and the SWMP programs. Such inspections may be made at active construction, development, and re-development sites or at any stormwater management system or facility in perpetuity. The Director of Public Service or his designee shall duly notify the property owner or operator of said property or the representative on site and the inspection shall be conducted at reasonable times. Where the property owner or operator has security measures in force requiring proper identification and clearance before entry onto the premises, the person shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, the Director of Public Service or his designee will be permitted to enter without delay for the purposes of performing such responsibilities identified above.

(c) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The Director of Public Service or his designee shall document the refusal and the grounds for such and promptly seek appropriate compulsory process.

(d) In the event that the Director of Public Service or his designee reasonably believes that a property is causing harm to the City's stormwater management system or facility which is an imminent and substantial threat to human health or the environment, an inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the property owner or operator.

(e) Inspection reports shall be maintained by the Department of Public Service in accordance with the law.

Sec. 27-52. Enforcement.

(a) When the Director of Public Service or his designee finds that work done for construction activities, new development, and re-development fails to conform to the approved Construction Activity Application, or that the work has not been done, the Director of Public Service or his designee may by written Notice of Violation (NOV), direct conformity to said approval(s). Actions may include:

- (1) Issuing a written order to comply, to suspend work, or to revoke the approval issued;
- (2) Seeking redress through legal action;
- (3) Withholding the release of certificate of occupancy; and/or,
- (4) Withholding or revoking City permits related to the site.

The written NOV shall be provided to the owner, operator, or the person responsible for land disturbing activities stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken by the inspection date.

(b) The Director of Public Service, his designee, or other authorized personnel may issue a stop work order if it is found that a construction activity, new development, or re-development is being conducted in violation of this ordinance. The stop work order may allow or require correction of Notice of Violation (NOV) issues, but shall otherwise stop all other construction, new development, and re-development related activities. A stop work order may carry with it criminal penalties as well. Any person in violation of a stop work order is subject to payment of all fees and criminal fines prior to the lifting of the stop work order.

(c) When the Director of Public Service or his designee determines that an owner or operator has failed to maintain a stormwater management facility, a written NOV shall be provided to the owner or operator of such property stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken by the inspection date.

(d) When the Director of Public Service or his designee determines that an owner or operator of any property is causing or partially causing flooding, erosion, or non-compliance with water quality standards or this ordinance, upon providing valid proof of such impacts, the Director of Public Service or his designee can require owners to remove the proven impact in a concerted, prudent manner and restore the impacted property. A written NOV shall be provided to the owner or operator of such property stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken by the inspection date.

(e) This ordinance may be enforced by any remedy of law or equity that the City is authorized to pursue, to include the authorities and powers conferred to local governments by the General Assembly of South Carolina. The City may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this ordinance or to correct violations of this ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Sec. 27-53. Corrective Action.

(a) In the event a violation of this ordinance has not been corrected within the applicable time period for correction stated on the NOV or if the violation poses an imminent threat to the health or safety of the general public or the environment, the City, or its agent, may enter upon the lot or parcel of land and correct the violation, and the costs incurred as a result of such action, including, but not limited to inspection, administration, labor, and equipment costs shall be collected from the property owner or the operator, or shall become a lien upon the property and shall be collected in the same manner as the City's taxes are collected.

Sec. 27-54. Suspension and Revocation of a Construction Activity Application.

(a) An approved Construction Activity Application may be suspended or revoked if one or more of the following violations have been committed:

- (1) Violations of the conditions of the Construction Activity Application approval;
- (2) Construction is not in accordance with the letter or intent of the approved plans;
- (3) Non-compliance with NOVs or stop work order(s); or,

(4) The existence of an immediate danger to a receiving water in the judgment of the Director of Public Service or his designee.

(b) Notice of the hearing for suspension or revocation of an approved Construction Activity Application shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the property owner or operator at the address listed on the Construction Activity Application at least five (5) days prior to the date set for the hearing.

Sec. 27-55. Penalties.

(a) Any person who violates any provision of this Article shall be subject to the penalties set forth in Section 1-16 of the Code of the City of Charleston.

(b) The penalties and other remedies provided in this ordinance are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations.

(c) Where the City is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and the City can identify the person(s) who caused such violation(s) to occur, the City may pass through the penalty and cost of compliance to that person(s).

Sec. 27-56. - 27-61. Reserved.

DIVISION 6 VARIANCES

Sec. 27-62. Design Criteria.

(a) The Department of Public Service may grant a variance from the requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance.

(b) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.

Sec. 27-63. – 27-68. Reserved.

DIVISION 7 APPEAL PROCESS

Sec. 27-69. Appeal Process.

Any person aggrieved by the action of the Director of Public Service or his designee in the denial of a Construction Activity Application shall have the right to appeal to the City's Public Works and Utilities Committee by filing with the City's Clerk of Council a petition in writing setting forth plainly, fully, and distinctly why the denial is contrary to law. The appeal shall be filed within thirty days after the affected party receives actual notice of the decision of the Director of Public Service or his designee. Public Works and Utilities Committee hearings requested pursuant to this section shall be scheduled within thirty (30) days after receipt of a proper request for an appeal unless continued by agreement and decisions shall be rendered within sixty (60) days from the end of the hearing. The Public Works and Utilities Committee shall have full authority to affirm, modify, or reverse a decision of the Director of Public Service or his designee. In evaluating the appeal, the Public Works and Utilities Committee shall determine whether the decision of the Director of Public Service or his designee was made in

compliance with the standards, policies, and criteria of this Article. Any person aggrieved by a final determination of the Public Works and Utilities Committee shall have the right to file an appeal with the Court of Common Pleas in and for the county of Charleston within thirty (30) days of notice of such determination.

Sec. 27-70. – 27-75. Reserved.

DIVISION 9 CHARGES AND FEES

Sec. 27-76. Connection to Conveyances/Fees.

The Department of Public Service shall have the right to establish a schedule of appropriate fees for any property owner or operator establishing a new discharge to receiving waters within the City or to a wet weather conveyance. Such fee shall be payable as part of any application regulating the discharge of stormwater runoff. Application fees shall be established on the basis of facility classes relating to the quantity and quality of approved discharge. Establishment and revision of such fees shall be approved by City Council.

Sec. 27-77. Plan Review.

Costs associated with plan review of construction activities, development, and re-development construction documents other than those routinely performed by the Department of Public Service may be assessed as a fee representing the cost in labor, equipment, and materials expended in the conduct of the review. Establishment and revision of such fees shall be approved by City Council.

Sec. 27-78. Field Inspection.

Costs associated with field inspection and re-inspections of construction activities, new development, and re-development activities other than those routinely performed by Department of Public Service as part of compliance monitoring may be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection. Establishment and revision of such fees shall be approved by City Council.

Sec. 27-79. -27-84. Reserved.

ARTICLE II. STORMWATER FACILITIES AND FLOOD HAZARD DAMAGE PREVENTION AND CONTROL

Division 1 STORMWATER FACILITIES

Sec. 27-85. Injuring or Obstructing Stormwater Facilities.

It shall be unlawful for any person to do or cause to be done any injury to or to cause an obstruction of any kind in any manner to any of the appliances or parts of the public stormwater facilities.

Sec. 27-86. Consent Required to Uncover Public Stormwater Facility.

It shall be unlawful for any person to uncover any public stormwater facility, or connection branches thereof, for any purpose or to make connection therewith, or to open any stormwater facility, unless and except with the approval and inspection of the Department of Public Service.

Sec. 27-87. Removal of Sewage by Connection with a Stormwater Facility Prohibited.

It shall be unlawful for any person to make, or cause to be made, any connection for the removal of sewage from any premises, with any stormwater facility or with any receiving water within the limits of the city.

Sec. 27-88. Laying Pipe in Street within Five Feet of Stormwater Facility Prohibited.

No person shall lay any pipe or conduit for any purpose whatsoever in any street within five (5) feet on either side of a public stormwater facility without the prior approval of the Director of Public Service or his designee.

Sec. 27-89. Opening Trenches in Public Way.

In opening trenches in any street or public way, the paving or ballast shall be removed with care; the sides of the trench shall be sheeted or braced in accordance with local, state, and federal law and every precaution taken to prevent injury to person or property during the progress of the work. The earth thrown from the trench shall be placed so as not to obstruct public stormwater facilities and so as to cause the least obstruction to public travel. All existing utility lines shall be protected from injury.

Sec. 27-90. Form of Application for Connection Permit.

Application for a permit to make a stormwater facility connection shall be made on suitable forms provided by the Department of Public Service.

Sec. 27-91. Notification of Engineering Division Prior to Laying Stormwater Facilities; inspection and approval.

Notice shall be left at the engineering division forty-eight (48) hours prior to the beginning of any work laying a storm drain. No material shall be used or work covered until inspected and approved by the engineering division.

Sec. 27-92. Grading and Drainage Requirements.

(a) No lot shall be used for building purposes in the city until the Director of Public Service or his designee has determined that such lot is has been graded so as to be effectively drained in accordance with an approved stormwater management plan.

(b) All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.

Sec. 27-93. – 27-98. Reserved.

DIVISION 2 PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 27-99. Low Lots or Grounds Constituting Public Nuisance or Health Hazard.

(a) It shall be unlawful for any owner with low lots which shall be found by the Department of Public Service to be a public nuisance or health hazard, to fail to eliminate such nuisance or hazard in such manner and within such times as the Department of Public Service shall direct.

(b) *Inspections.* Whenever it shall appear to the Department of Public Service that any low lots are in a condition to constitute a public nuisance or health hazard, it shall be the duty of the Department of Public Service to enter upon and thoroughly examine the low grounds in question to determine whether such lots should be drained, filled up, leveled, cleared or otherwise so improved as to remove the nuisance and health hazard there complained of or existing.

(c) *Determination of hazard; order to correct.* Should the Department of Public Service be of the opinion that the low lots in question ought to be filled up, leveled, cleared or drained, or otherwise improved as to remove the nuisance and health hazard, the Department of Public Service shall forthwith order and direct the owners of such low lots to take such action in such manner and with such materials and within such reasonable times as the Department of Public Service may prescribe. In no event shall the time prescribed be less than ten (10) days.

(d) *Service of notice.* Such notice shall be served on the owner or owners of the low lots in writing either in person, by registered mail, or by publication. Where a notice by registered mail is sent to the last known address of the owners it shall be deemed a service upon the owners of such lots.

(e) *Noncompliance with notice; work done by city.* In case of neglect or refusal of an owner to obey a notice as provided for in paragraph (d) of this Section, it shall be the duty of the Department of Public Service to cause the low lots in question to be filled up, leveled, cleared, drained or otherwise so improved as to remove the nuisance and health hazard.

(f) *Costs of work done by city to constitute lien against property.* The expenses and charges paid or incurred in case low lots shall be filled up, leveled, cleared, drained or otherwise improved by the Department of Public Service shall be paid in the first instance out of the city treasury and such expenses and charges shall be a lien against the real property upon which such cost was incurred, which lien shall be enforced and collected in the same manner as municipal taxes.

(g) Nothing herein shall prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations.

Sec. 27-100. Water from Building.

On all new construction, developments, or redevelopments required by the Standard Building Code to conform to requirements for new buildings, it shall be unlawful for any person to collect rainwater for deposit on any street, sidewalk or right-of-way, or otherwise suffer or permit, or by mechanical means propel, rainwater on such street, sidewalk or right-of-way.

Sec. 27-101. Flood Hazard Areas.

(a) If, upon the determination and written notice of the Building Code Official or any other responsible city official, a proposed structural use in any zone district of the city lies within an area of suspected flood hazard to public health or safety it shall be the duty of the Building Code Official to withhold approval of building permits until one of the following requirements has been met:

(1) Documented, written evidence by a registered engineer that the proposed development does not place in hazard public health or safety, either on the subject property or upstream, or downstream.

(2) Documented, written evidence by the owner of the land or his agent further certified by a registered engineer that proposed improvements or standards such as flood proofing, filling, excavating, etc., will be instituted to overcome encroachment upon the normal water-carrying functions of adjacent streams resulting in hazards to public health and safety.

(3) Written evidence by the owner of the land or his agent that the development shall be confined to the following permitted uses with normal safeguards to public health and safety:

- a. In or adjacent to residential developments:
 - i. Agricultural uses permitted under the provision of the zoning ordinance.
 - ii. Railroads, streets, bridges and public utility wire and pipe lines for transmission and local distribution purposes.
 - iii. Public parks and playgrounds and outdoor private clubs, including but not limited to country club, swimming clubs, tennis clubs, provided that no principal building is located in the floodway.
 - iv. Recreational camp and camping grounds, provided that rest room facilities shall be located and constructed in accordance with the health department requirements.
 - v. Commercial excavation of natural materials and improvements of a stream channel.
 - vi. Uses accessory to those permitted in adjoining lots or tracts of land.

- b. In or adjacent to commercial development:
 - i. Any of the above permitted uses.
 - ii. Archery ranges, drive-in theaters, miniature golf courses and golf driving ranges.
 - iii. Loading and unloading areas, parking lots, used car lots.
 - iv. Other similar uses accessory to those permitted in the adjoining district.
 - v. Parking lots.

- c. In or adjacent to industrial development:
 - i. Agricultural uses including crop, nursery stock, and tree farming, truck gardening, livestock grazing, and other agricultural uses which are of the same or closely similar nature.
 - ii. Storage yards for equipment and material not subject to major damage by flood, provided such use is accessory to a use permitted in an adjoining district.
 - iii. Parking lots.
 - iv. Railroads, streets, bridges and utility lines.
 - v. Uses accessory to those permitted in adjoining lots or tracts of land.

(b) The required evidence shall be submitted to the board of adjustment by the owner or his agent and reviewed for adequacy within a period not exceeding thirty (30) days after receipt. The board of adjustment shall determine if conditions necessary for public health and safety have been met within the allotted thirty (30) day period or an affirmative decision shall be presumed. However, upon the event of a negative decision additional documentation may be presented which starts another thirty (30) day period.

Sec. 27-102. Stormwater management systems.

(a) Stormwater management systems for development in the city shall adhere, at a minimum, to the requirements as established by S.C. Code § 48-14-10, et. seq. (Supp. 2000), the Stormwater Management and Sediment Reduction Act, and the regulations promulgated pursuant thereto, as the same may from time to time be amended.

(b) Consistent with requirements of the Stormwater Management and Sediment Reduction Act, in areas of the city deemed by the Director of Public Service or his designee to require more stringent design specifications due to reoccurring flooding conditions, stormwater management systems shall be required to adhere to such development and design criteria as deemed necessary by the Director of Public Service or his designee.

(c) Within the area of the city delineated as the Church Creek Basin in the Master Drainage and Floodplain Management Plan dated May 1984, on file in the offices of the Department of Public Service, City Council finds that because of the topography and the limited stormwater infrastructure, homes and other developed properties in the basin have experienced severe flooding during rainstorms that did not exceed the design rainfall event. The infrastructure now in place is not sufficient to adequately handle the stormwater discharge of the development that has occurred to date, and stands to be further adversely impacted as additional development occurs. It is evident that absent the implementation of reasonable regulations and specific criteria for the design and construction of permanent stormwater management systems associated with new development in the basin, both existing and planned, will be threatened.

A special stormwater management area is established within which all new development shall adhere to special stormwater management design standards, which shall be designated as the Church Creek Special Stormwater Management Area and shall be defined as only that portion of the Church Creek basin that lies north of the existing railroad right-of-way, which is more specifically shown in the Master Drainage and Floodplain Management Plan dated May 1984 and the Stormwater Master Plan for the Church Creek Watershed on file in the offices of the Department of Public Service (hereinafter referred to as the "Church Creek Special Stormwater Management Area").

Within the Church Creek Special Stormwater Management Area, all permanent stormwater management systems associated with new development shall be designed and constructed to maintain the post-development peak flow rates at or below the pre-development peak flow rates, and to detain the excess runoff volume difference between the pre-development and post-development conditions for the design storm having a duration of 24-hours and frequencies of 2, 10, 25, 50 and 100 years for a period of twenty-four (24) hours, with tolerances for a peak flow rate match for the 25- and 50-year storm events being plus or minus ten (10) percent, with all others matching pre post-development conditions. Detention facilities meeting these standards shall be designed and constructed to contain the excess volume for the 24-hour period and the volume required to release the post-development peak flow at or below the pre-development peak flow rates, all as are more fully explained and specified in the Stormwater Master Plan for the Church Creek Watershed maintained on file in the office of the Director of Public Service or his designee, and which is incorporated herein by reference.

Sec. 27-103 - 27-108. Reserved.

ARTICLE III. STORMWATER MANAGEMENT UTILITY

Sec. 27-109. Findings.

City Council hereby makes the following findings of fact:

(a) The management of stormwater runoff and sediment is necessary to reduce pollution, siltation, sedimentation, local flooding and stream channel erosion, all of which impact adversely on land and water resources and the health, safety, property and welfare of the residents of the city;

(b) The City maintains a system of stormwater management facilities, including but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways;

(c) The stormwater management facilities and components of the city need to be regularly rehabilitated, upgraded or expanded, and additional stormwater management facilities and measures need to be installed throughout the city;

(d) The city needs to upgrade its capability to maintain existing and future stormwater management facilities and measures;

(e) Every parcel of improved real property in the city both uses or benefits from the stormwater management system; and the improvement of existing facilities and construction of additional facilities in the system will directly benefit the owners of all improved real estate;

(f) Continued growth in the city will contribute to the need for improvements to and maintenance of the stormwater management system;

(g) The extent of use of the stormwater management system by each parcel of improved real property is dependent on factors that influence runoff, such as land use, intensity of development, amount of impervious surface, and location in a particular watershed or basin;

(h) Owners of improved real property and users should finance the stormwater management system to the extent they contribute to the need for the system, and derive special benefits therefrom, and charges therefore should bear a substantial relationship to the cost of the service;

(i) It is in the best interests of the citizens of this city and, most specifically, the owners of improved property, that a stormwater management utility and stormwater management utility fee system be established by ordinance and implemented as part of the city's utility enterprise system;

(j) Pursuant to S.C. Code Ann. § 12-37-250 (1976) persons sixty-five (65) years of age or older and certain persons who are totally and permanently disabled, or are legally blind are entitled to a reduction of ad valorem taxes upon application for a homestead exemption;

(k) City Council finds that it is the public policy of the State of South Carolina that consideration be accorded those persons who are sixty-five (65) years of age or older and certain persons who are totally and permanently disabled or are legally blind in the payment of monies for the operation of local governments and their agencies, in recognition of the fact such persons are often on fixed incomes and least able to afford such payments; and

(l) City Council is desirous of exempting from the payment of stormwater utility fees all properties that are designated for homestead exemptions on the Charleston County and Berkeley County tax records, and City Council finds that an exemption from stormwater utility fees is in accordance with that public policy.

Sec. 27-110. Article Designation and Authority.

This Article may be cited as the Stormwater Management Utility Ordinance and is adopted pursuant to S.C. Code Ann. § 48-14-10, et seq., S.C. Code Ann. § 5-7-30 and S.C. Land Resources Conservation Commission Regulations 72-300 to 72-316.

Sec. 27-111. Definitions.

Unless the context specifically indicates otherwise, the meanings of words and terms used in this Article shall be as set forth in S.C. Land Resources Conservation Commission, Regulation 72-301, (Supp. 1992), *mutatis mutandis*.

"Base rate" shall mean the monthly stormwater management fee charged per equivalent residential unit, which rate shall six dollars (\$6.00) for the remainder of 2006, and thereafter the base rate shall be adjusted, subject to City Council approval in conjunction with the city's budget calendar, based on the cost of living calculation for the Southeast Region as determined by the U.S. Department of Labor Statistics.

"Developed property" shall mean real property, which has been altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious or semi-pervious surface area. For new construction property shall be considered developed property upon final approval of site improvements by the Director of Public Service or his designee.

"Dwelling unit" shall mean a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Equivalent residential unit" shall mean the total impervious area of a typical single-family residential property; and is defined as the median impervious area of a representative sample of all residential properties in the flat rate single-family category. The equivalent residential unit is two thousand two hundred (2,200) square feet.

"Fee" shall mean the monthly amount charged to a utility customer, owner, or occupant of real property for the services provided by the stormwater utility.

"Impervious surface area" shall mean a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventional surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

"Multi-family residential property" shall mean developed property that serves the primary purpose of providing a permanent dwelling unit or units, and which may or may not have accessory uses related to the purpose of providing permanent dwelling facilities.

"Non-residential property" shall mean developed property that does not serve the primary purpose of providing permanent dwelling units. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, recreational, institutional and cultural facilities, hotels, offices, and churches.

"Private stormwater facilities" are those facilities that are not dedicated for public conveyance of stormwater nor have they been accepted for maintenance by the city as part of the public stormwater system.

"Public stormwater system" includes stormwater facilities that have been dedicated and accepted for public use and maintenance by the city.

"Revenues" shall mean all fees, assessments or other income received by the stormwater utility, including but not limited to, amounts received from the investment or deposit of monies in any fund or account and all amounts received as gifts, donations and the proceeds from the sale of bonds to finance the stormwater management program.

"Self-contained stormwater facilities" shall mean stormwater facilities that (1) accept stormwater drainage in such a way as to have no impact on other city owned or city maintained drainage facilities or drainage activities of the city, as determined by the Director of Public Service or his designee; and (2) are not connected on the inlet or outlet side of any city-owned or city-maintained stormwater facility.

"Semi-pervious surface area" shall mean any ground surface that has been altered from its natural condition by re-grading, compaction or addition of surface layer, and whose runoff characteristics have been significantly affected by such alteration.

"Single-family residential property" shall mean property designated as a single parcel on the Berkeley or Charleston County tax maps, containing only one (1) dwelling unit and that does not share a wall, ceiling or floor with another dwelling unit.

"Stormwater facilities" may include ditches, swales, channels, canals, ponds, lakes, pipes, culverts, grates, weirs, inlets, outlets and other structures that exist for the collection, storage, conveyance and treatment of stormwater runoff.

"Undeveloped property" shall mean any residential or non-residential property that has less than ten (10) per cent of the equivalent residential unit of impervious or semi-pervious surface area.

"Utility customer" shall mean the person or entity that is in possession of and has beneficial use of the property, and such person or entity shall receive the monthly billing for the stormwater utility fee. Upon failure of such party to make payments of the fee, the owner of the property shall have the ultimate responsibility for the fee.

Sec. 27-112. Establishment of Stormwater Management Utility; Administration; Duties and Powers.

City Council hereby establishes a stormwater management utility (utility) to carry out the purposes, functions and responsibilities herein set forth. The governing body of the utility shall be City Council. The Mayor shall administer the utility under the Engineering Division of the Department of Public Service. The utility shall have the powers and duties hereinafter set out, which powers and duties are not necessarily exclusive to the utility, to wit:

- (a) Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
- (b) Regular inspections of public and private stormwater management facilities and measures and the construction thereof;
- (c) Maintenance and improvement of stormwater management facilities that have been accepted by the city for that purpose;
- (d) Plan review and inspection of sediment control and stormwater management plans, measures and practices;
- (e) Retro-fitting designated watersheds to reduce existing flooding problems to improve water quality;
- (f) Acquisition of interests in land, including easements;
- (g) Design and construction of stormwater management facilities and measures and acquisition of equipment;
- (h) Water quantity and water quality management, including monitoring surveillance; and
- (i) Any and all powers and duties delegated or granted to it as a local government implementing agency under the laws and regulations of the State of South Carolina, and the ordinances of this city.

Sec. 27-113. Jurisdiction.

The boundaries and jurisdiction of the utility shall extend to the corporate limits of the city, as they may exist from time to time, except those parcels for land designated "Parcels in the City to be excluded from the Stormwater Utility District" on a map entitled "Stormwater Utility District, City of Charleston in Berkeley County" produced March 5, 1996, on file in the offices of the clerk of council and the utility, and such areas outside the corporate limits of the city as shall be approved by City Council.

Sec. 27-114. Stormwater Utility Fees.

City Council shall establish by ordinance the amount or amounts and classifications of fees to be implemented to help fund the utility and its programs and projects. In establishing such fees, City Council shall consider, among other things, the following criteria:

(a) The fee system shall be reasonable and equitable so that users pay to the extent they contribute to the need for the utility, and the fees shall be apportioned with approximate equality and upon a reasonable basis of equality with due regards for the benefits conferred. City Council recognizes that these benefits, while substantial, in many cases cannot be measured directly.

(b) The components of the calculations used to establish fees shall include, but may not be limited to, the following cost factors, which may be associated with the resolution of stormwater problems which the utility shall seek to alleviate:

1. Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
2. Regular inspections of public and private stormwater management facilities and measures and the construction thereof;
3. Maintenance and improvement of stormwater management facilities that have been accepted by the city for that purpose;
4. Plan review and inspection of sediment control and stormwater management plans, measures and practices;
5. Retro-fitting watersheds to reduce existing flooding problems or to improve water quality;
6. Acquisition of interests in land, including easements;
7. Design and construction of stormwater management facilities and measures and acquisitions of equipment;
8. Administration and enforcement;
9. Water quantity and water quality management, including monitoring surveillance; and
10. Debt service and financing costs.

(c) The components of the calculations used to establish fees shall be based on an "equivalent residential unit" (ERU), to be determined and approved by City Council with reasonable general adjustments being made for, but not limited to, the following factors:

1. Commercial and land uses other than single family residential;

2. Open and/forested land;
3. Lot or tract size;
4. The total amount of impervious area on each parcel; and
5. Other generally accepted factors relevant to such calculations based upon the provisions of this Article.

(d) The practical difficulties and limitations related to establishing, calculating, and administering such fees.

Sec. 27-116. Classification of Property for Purposes of Determination of the Fee.

For the purposes of determining the fee, all properties in the city are classified as follows:

- (a) Single family residential;
- (b) Multi-family residential
- (c) Non-residential; or
- (d) Undeveloped.

Sec. 27-117. Establishment of Monthly Fees for all Developed Property.

Monthly fees for all developed property, whether occupied or vacant, shall be as follows:

(a) Single family residential property shall be charged a fee of the base rate times one (1) equivalent residential unit, regardless of the size of the parcel or the improvements. Provided however, upon applications by the owner and verification by the utility, all properties that are designated for homestead exemptions on the tax records for Charleston County and Berkeley County are exempt from the payment of the fee.

(b) Multi-family residential property shall be charged a fee of seventy-five (75) percent of the base rate for each dwelling unit.

(c) Non-residential property shall be charged the base rate multiplied by the numerical factor obtained by dividing the total impervious area of the property, as determined by the Director of Public Service or his designee, by one (1) equivalent residential unit (2,200 square feet). The numerical factor will be rounded to the nearest hundredth (0.01) of a unit. The minimum fee for any non-residential property shall be no less than the base rate.

(d) Undeveloped property shall be exempt from the fee.

Sec. 27-118. Vacant Property and Responsibility for Fees.

The ultimate responsibility for fees for vacant, developed property shall be that of the owner. Where there are separate water meters servicing a single parcel of property, the owner shall be billed for the vacant units.

Sec. 27-119. Fee Adjustments.

After the numbers of ERU's have been calculated based on existing site development and when certain criteria are met non-residential properties may be eligible for adjustments. Retention/detention adjustments are available for properties where private stormwater facilities exist. Self-contained stormwater system adjustments are available for properties that have self-contained stormwater facilities which do not directly discharge to any stormwater conveyance facility maintained by the city. However, no parcel shall be assigned an ERU of less than one (1) per parcel to reflect the costs of maintaining those parcels in the stormwater database, and to reflect the benefit each parcel receives through the incremental improvement of stormwater management throughout the city. It is the stormwater utility

customer's responsibility to provide proof that conditions exist that may qualify a property for a particular adjustment.

(a) **Retention/detention adjustments.** The city may allow adjustment of stormwater charges for privately maintained retention and/or detention facilities upon inspection and approval of facilities by the Director of Public Service or his designee. The amount of the adjustment and requirements for receiving and maintaining those adjustments are as follows:

1. The rate of the adjustment for privately maintained retention/detention stormwater facilities is based on the amount of reduced impact that the privately maintained stormwater facilities achieve. Rates of adjustment are as follows:

a. Where stormwater management facilities are constructed and maintained which reduce the maximum instantaneous rate of discharge from the property from a ten-year, 24-hour storm event to less than or equal to the predevelopment rate, the utility customer shall receive a reduction of the fee by twenty-five (25) percent.

b. Where stormwater management facilities are constructed and maintained which reduce the maximum instantaneous rate of discharge from the property from a twenty-five year, 24-hour storm event to less than or equal to the predevelopment rate, the utility customer shall receive a reduction of the fee by twenty-five (25%) percent.

c. Where stormwater management facilities are constructed and maintained which reduce the maximum instantaneous rate of discharge from the property from a one hundred-year, 24-hour storm event to less than or equal to the predevelopment rate, the utility customer shall receive a reduction of the fee by twenty-five (25) percent.

2. A non-residential property with private stormwater retention/detention facilities shall be eligible for an adjustment of fees when the following conditions are met:

a. Private stormwater facilities exist;

b. The utility customer has provided proof of reduced impact by submitting hydraulic/hydrologic calculations and topographic maps signed and sealed by an engineer registered in the State of South Carolina to the Director of Public Service or his designee;

c. The utility customer has provided a copy of a valid NPDES stormwater permit or a statement that no permit is required for the activity on the parcel;

d. The utility customer has entered into a maintenance agreement with the city for continued maintenance of the private stormwater facilities;

e. The proof of reduced impact upon city-owned or maintained stormwater facilities has been approved by the Director of Public Service or his designee; and

f. The owners of the parcel receiving adjustments of the city stormwater charges agrees that, prior to receiving such adjustments, it will provide maintenance on all private drainage structures, consistent with the requirements of the city and the city's maintenance practices for public drainage structures.

(b) Self-contained stormwater facilities adjustments. The city may allow adjustment of stormwater charges for self-contained stormwater facilities that reduce the amount of impact on city maintained stormwater facilities upon inspection and approval of facilities by the Director of Public Service or his designee. The amount of the adjustment and requirements for receiving and maintaining those adjustments are as follows:

1. The rate of the adjustment for self-contained stormwater facilities is based on the amount of reduced impact that the privately maintained stormwater facilities achieve. The city may allow exemption from stormwater charges for any portion of the parcel that can be demonstrated to directly discharge into any drainage conveyance facility not maintained by the city. The adjustment in fee shall be one hundred (100%) percent for that portion of the parcel that meets this criteria.

2. A non-residential property with private stormwater facilities shall be eligible for an adjustment of fees for self-contained stormwater facilities when the following conditions are met:

a. Private stormwater facilities exist;

b. The utility customer has provided to the city information demonstrating its facilities qualify as self-contained facilities, including hydraulic/hydrologic calculations, topographic maps and other necessary information signed and sealed by an engineer registered in the State of South Carolina.

c. The utility customer has provided a copy of a valid NPDES stormwater permit or a statement that no permit is required for the activity on the parcel;

d. The utility customer has entered into an agreement with the city in which the property owner agrees to provide continued maintenance of the private stormwater facilities;

e. The proof of reduced impact upon city-owned or maintained stormwater facilities has been approved by the Director of Public Service or his designee; and

f. The owners of the parcel of property receiving adjustments of the city stormwater charges agrees that, prior to receiving such adjustments, it will provide maintenance on all private drainage structures, consistent with the requirements of the city and it's the city's maintenance practices for public drainage structures.

(c) Combining fee adjustments: Fee adjustments, as described in paragraph (1)a.1., through (1)a.3. are cumulative and may be combined. A fee adjustment as described in paragraph (2)a. is not cumulative and may not be combined with the adjustment described in paragraph (1) of this Section.

(d) Multi-family residential property may be treated as non-residential property: When requested by the utility customer stormwater utility charges may be determined and billed based on requirements for non-residential property.

(e) "In-kind" payments allowed: The city and the utility customer may enter into an agreement in which (a) the utility customer agrees to maintain its private stormwater facilities that receive discharge from city stormwater facilities located on or adjacent to the owner's property, and (b) the city accepts the utility customer's maintenance services "in-kind" in place of payment of city stormwater utility charges. Valuation of any "in-kind" services provided by the utility customer shall be made based on the cost savings realized by the city.

Sec. 27-120. Effective date of adjustments.

Adjustments approved pursuant to Section 27-81 to a utility customer's fee on a parcel with private stormwater facilities shall become effective as follows:

(a) The rates of adjustment for new and existing stormwater facilities that meet the criteria of Section 27-119 paragraph (1) Retention/detention adjustments, shall be effective the first full billing period following the date of ratification for this ordinance or the date that the application is approved which ever is later.

(b) For new stormwater facilities that meet the criteria of Section 27-119 paragraph (2) Self-contained stormwater facilities adjustments, the adjustment shall be effective the first full billing month after the application is approved by the Director of Public Service or his designee.

(c) For existing stormwater facilities that meet the requirements of Section 27-119 paragraph (2) Self-contained stormwater facilities adjustments, the effective date of the adjustment shall be February 28, 1995, or the date such conditions came into being, whichever is later; provided that the application is made within the first twelve months after the date of ratification of this ordinance. For applications received after the first twelve (12) months after ratification of this ordinance adjustments shall be effective the first full billing period after the Director of Public Service or his designee approves the application.

(d) Adjustments are transferable and shall continue as long as the conditions and circumstances under which the adjustment was granted are met. Should the utility customer fail to maintain the private stormwater facility or fail to perform in accordance with the stormwater maintenance agreement, the Director of Public Service or his designee shall immediately revoke the fee adjustment by written notice to the utility customer.

(e) Under no condition shall adjustments exceed the amount of actual fees paid by a customer for a particular parcel.

Sec. 27-121. Notification of Determination of Impervious Area for Developed Non-residential Property.

The Director of Public Service or his designee shall determine the amount of impervious area or semi-pervious area on each non-residential property and, if requested by the utility customer, on multi-family residential properties. A determination shall be made using aerial photographs and/or field checks where necessary. Upon application, a utility customer shall be provided a written determination of the amount of impervious area and/or semi-pervious area for which a fee has been established.

Sec. 27-122. Collection of Fees.

(a) The Director of Public Service or his designee shall prepare and forward all information necessary to the Charleston Waterworks for the purpose of monthly billing of fees. The fee shall appear as a separate item on the water and/or sewer bill. The fee may be billed separately to utility customers, in cases where the use of the Charleston Waterworks billing system is deemed inappropriate.

(b) In the event that the fees are not paid when due, late fees shall accrue at a rate equal to the late fees charged for water and sewer fees by the Charleston Waterworks, until such time as the overdue payment and interest are paid.

(c) Developed properties shall be subject to the imposition of a fee upon final approval of site development by the Director of Public Service or his designee.

Sec. 27-123. Investment and Reinvestment of Funds and Borrowing.

Funds generated for the utility from fees, bond issues, other borrowing, and other sources shall be utilized only for those purposes for which the utility has been established, including but not limited to: planning; acquisition of interests in land including easements; design and construction of facilities; maintenance of the stormwater system; billing and administration; and water quantity and water quality management, including monitoring, surveillance, private maintenance inspection, construction inspection, and other activities which are reasonably required. Such funds shall be invested and reinvested pursuant to the same procedures and practices established by the city for investment and reinvestment of funds. City Council may use any form of borrowing authorized by law to fund capital acquisitions or expenditures for the utility.

Sec. 27-124. Requests for Reconsideration.

(a) A utility customer may request a reconsideration of any determination or interpretation by the Director of Public Service or his designee in the operation of the stormwater utility. Such request shall be in writing and filed with the Director of Public Service or his designee within thirty (30) days of receipt of notification of the determination or interpretation.

(b) The Director of Public Service or his designee shall review the application and make a decision on the request within thirty (30) working days.

(c) The request shall be made upon such forms and be accompanied by such information as the Director of Public Service or his designee, by written policy, shall require.

Sec. 27-125. Appeals.

Any person aggrieved by the decision of the Director of Public Service or his designee under Section 27-124 shall have the right to appeal to the City's Public Works and Utilities Committee by filing with the City's Clerk of Council a petition in writing setting forth plainly, fully, and distinctly why the denial is contrary to law. The appeal shall be filed within thirty days after the affected party receives actual notice of the decision of the Director of Public Service or his designee. Public Works and Utilities Committee hearings requested pursuant to this section shall be scheduled within thirty (30) days after receipt of a proper request for an appeal unless continued by agreement and decisions shall be rendered within sixty (60) days from the end of the hearing. The Public Works and Utilities Committee shall have full authority to affirm, modify, or reverse a decision of the Director of Public Service or his designee. In evaluating the appeal, the Public Works and Utilities Committee shall determine whether the decision of the Director of Public Service or his designee was made in compliance with the standards, policies, and criteria of this Article. Any person aggrieved by a final determination of the Public Works and Utilities Committee shall have the right to file an appeal with the Court of Common Pleas in and for the county of Charleston within thirty (30) days of notice of such determination.

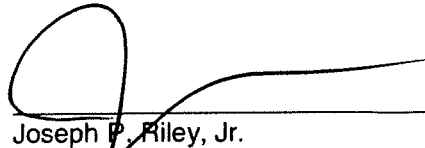
Sec. 27-126. Severability.

It is declared the intent of City Council that the Sections, subsections, paragraphs, sentences, clauses and phrases of this Article are severable; and if any such provision shall be declared unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity or enforceability of any remaining provisions of this Article, and it is the intent of City Council that such provisions shall continue in full force and affect."

Section 3. This Ordinance shall become effective September 1, 2007.

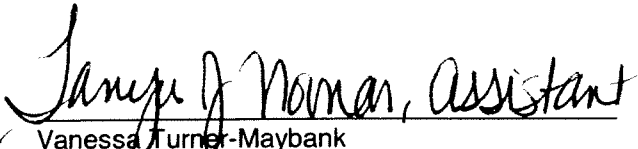
Ratified in City Council this 21st day of August in
the Year of Our Lord, 2007, in the 232nd Year of
Independence of the United States of America.

By:



Joseph P. Riley, Jr.
Mayor, City of Charleston

ATTEST:



for Vanessa Turner-Maybank
Clerk of Council